



THE CITY OF NEW YORK
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December 11, 2023

VIA ECF

Honorable Valerie Figueredo
United States Magistrate Judge
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Re: Andre Jamel Davis v. Sgt. Horton, et al.
23 Civ. 00885 (JPC) (VF)

Your Honor:

I am an Assistant Corporation Counsel in the Office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and the attorney for defendants New York City Police Department (“NYPD”) Sergeant Horton, NYPD Police Officer (“PO”) Gonzalez, NYPD PO Sedita, and NYPD PO Jean Calle in the above referenced matter. For the reasons set forth below, defendants Horton, Gonzalez and Sedita write to respectfully request a one-week extension of time, from December 13, 2023 to December 20, 2023, to file their response to the Second Amended Complaint. This is the second request for an extension of time to respond to the complaint and *pro se* plaintiff Andre Davis does not consent to this request because he believes defendants are “purposely prolonging this matter to cause unjust harm.”

By way of background, plaintiff brings this action, pursuant to 42 U.S.C. § 1983, § 1985, and § 1986, alleging *inter alia*, piracy and damage to “plaintiff’s personal consumer good (2002 Black Toyota 4Runner).” See Docket Entry No. 57. On September 8, 2023, plaintiff filed an Amended Complaint and one month later, on October 10, 2023, plaintiff filed a Second Amended Complaint purporting to name Officers Horton, Gonzalez, Calle, and Sedita as defendants. See Docket Entry Nos. 51, 57. To date, upon information and belief, defendants Horton, Gonzalez and Sedita have been served with the Second Amended Complaint; however, upon information and belief, Officer Calle has not yet been served with that pleading and therefore, is not yet a proper defendant.

Defendants Horton, Gonzalez and Sedita now respectfully request a brief one-week enlargement of time, from December 13, 2023 to December 20, 2023, to respond to the complaint because it recently became clear to the undersigned that defendants will likely request permission to move to dismiss the complaint pursuant to Rule 12 of the Federal Rules of Civil Procedure in lieu of submitting an answer. The additional week is necessary to finalize that decision and prepare the pre-motion conference letter as required by District Judge Cronan's individual rules of practice.

Accordingly, defendants Horton, Gonzalez and Sedita respectfully request a one-week extension of time, from December 13, 2023 to December 20, 2023, to file their response to the complaint.

Thank you for your consideration herein.

Respectfully submitted,

/s/ Eun Jee (Esther) Kim

Eun Jee (Esther) Kim

Assistant Corporation Counsel

Special Federal Litigation Division

cc: **VIA FIRST CLASS MAIL**

Andre Jamel Davis


Plaintiff pro se

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Application Granted



Valerie Figueredo, U.S.M.J.

DATED: December 12, 2023

The Clerk of Court is respectfully directed to terminate the motion at ECF No. 61.